

REMARKS/ARGUMENTS

Claims 1-6 are present in this application. By this Amendment, claim 1 has been amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 1, 3 and 5 were rejected under 35 U.S.C. §112, first paragraph. Without conceding this rejection, claim 1 has been amended to recite that the extracting unit extracts a top view image edge and a side view image edge to recognize a test tube pattern of each of the test tubes, the test tube pattern including opening and side patterns. Other references to image edges have been deleted. Applicant submits that the claims now more clearly satisfy the requirements of 35 U.S.C. §112. Withdrawal of the rejection is respectfully requested.

Claims 1, 3 and 5 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,926,268 to Bonewitz et al. in view of U.S. Patent No. 6,519,356 to Hooker et al., U.S. Patent No. 6,571,934 to Thompson, U.S. Patent No. 5,583,337 to Chan, and U.S. Patent No. 5,204,911 to Schwartz et al. Without conceding this rejection, claim 1 has been amended according to the Examiner's suggestions on pages 9 and 10 of the Office Action, which suggestions are noted with appreciation. In particular, claim 1 has been amended to recite that the comparison determination unit compares the opening pattern and the side pattern recognized by the extracting unit with the reference opening pattern and the reference side pattern of each of the test tubes included in the plural reference patterns stored in the reference pattern memory to determine a type of each of the test tubes held in the tube rack. As recognized by the Examiner, a combination of Chan's two comparisons and Schwartz' two comparisons does not clearly state comparing two patterns with another two patterns to determine a type of tube. As such, Applicant respectfully submits that the rejection of claim 1 should be withdrawn.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Alan M. Kagen/
 Alan M. Kagen
 Reg. No. 36,178

AMK:jls
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100